

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 1969 of 1996

For Approval and Signature:

Hon'ble MR.JUSTICE M.S.PARIKH

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

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BHAJANMAL JAMNADAS RIZWANI

Versus

GSRTC THROUGH CHAIRMAN

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Appearance:

MR CL SONI for Petitioner  
MR PRANAV G DESAI for Respondent No. 1  
SERVED BY DS for Respondent No. 2  
SERVED for Respondent No. 3  
SERVED BY AFFIXING for Respondent No. 4

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CORAM : MR.JUSTICE M.S.PARIKH

Date of decision: 16/12/96

ORAL JUDGEMENT

1. In this petition under Article 226 of the Constitution of India following reliefs have been claimed :-

- '(1) Be pleased to quash and set aside the action of the respondent-Corporation of taking decision to give licence to run pan-bidi stall at Bhavnagar S.T. Stand to respondent no.3, by issuing a writ of mandamus and/or by any other appropriate writ, direction or order,
- (2) Be pleased to quash and set aside the action on the part of the respondent-Corporation in permitting the respondent no.3 to raise tender amount than the petitioner beyond Rs.9000/after allowing the respondent no. 3 to know the figure quoted by the petitioner,
- (3) Be pleased to hold that respondent-Corporation was not authorised to permit respondent no. 3 to quote higher than the petitioner beyond Rs.9,000/- as the amount quoted by the petitioner,
- (4) Be pleased to direct respondent-Corporation not to give licence to the respondent no. 3 to run pan-bidi stall at Bhavnagar S.T. Stand, and
- (5) Be pleased to direct respondent-Corporation to give licence to the petitioner to run pan-bidi stall at Bhavnagar S.T. Stand.'

2. Facts as appearing in the statement of events would indicate that the petitioner was licensee in respect of pan-bidi stall in question and initially the licence was given to the petitioner's father by the respondent-Corporation, way back in 1969. It is the case of the petitioner that the licence was continued from time to time. It is further the case of the petitioner that after the petitioner's father passed away in the year 1990, the licence was transferred to the name of the petitioner from 27/12/1990. That is how the petitioner has been carrying on and continuing business in the stall in question.

3. The respondents nos. 1 and 2 gave advertisement inviting tenders for giving the stall in question on licence basis. The petitioner and the respondent no. 3 were the only tenderers in view of the allegation that the other persons' tenders were invalid. The petitioner and respondent no. 3 were called for discussion on 29/1/1996 and the petitioner was asked to quote the amount higher than Rs.9,000/-. The petitioner quoted the amount of Rs.9,151/-. He was informed that he would be given licence. But the petitioner came to know that

actual decision might be otherwise. According to the petitioner's information the respondent-corporation decided to give licence to respondent no. 3. Hence, the petitioner is before this Court with the aforesaid reliefs.

4. It is the stand of the respondent-Corporation that no irregularities have been committed in inviting the tenders and following the tender process, that the respondent no. 3 quoted the highest price of Rs.9,555/per month as licence fees for the stall in question, that respondent no. 4 quoted Rs.9,551/- and that price was also higher than the petitioner's price and that the respondent-Corporation passed a resolution deciding to issue licence to respondent no. 3 at the quoted price of Rs.9,555/- p.m. for a period of 11 months on usual terms and conditions with effect from the date on which the decision is communicated, failing which the respondent no.4 would be given licence being the second highest bidder.

5. It is a common ground that the aforesaid decision was not communicated at any time and this petition came to be filed. It is also not in dispute that the respondents nos. 3 and 4 have been served and they have not contested this petition. The petition has been placed for final disposal before this Court.

6. I have heard the learned advocate for the petitioner and learned advocate appearing for the respondent-Corporation and its authority. On being asked as to whether the petitioner is prepared to enhance his licence price, the petitioner has offered a sum of Rs.11,000/- being the amount of licence fees per month to be paid to the respondent-Corporation and to abide by other usual terms and conditions. In my opinion, the offer appears to be quite reasonable and deserves to be accepted by the respondent. Hence, in the facts and circumstances of the case, following direction is issued :-

The respondent-Corporation is directed to consider the petitioner's offer of Rs.11,000/- being the amount of licence fees per month to be paid by him to the respondent-Corporation in respect of the stall in question and pass appropriate orders regarding issuance of licence on usual terms and conditions.

Rule made absolute in the aforesaid terms. No order as to costs.

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